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August 9, 2002

VIA HAND DELIVERY

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

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AUG - 9 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: Ex Parte Presentations in CC Docket No. 01-331**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, Iowa Telecommunications Services, Inc. ("Iowa Telecom") hereby files this notice of written ex parte presentations. On August 9, 2002, Mimi Dawson of Wiley Rein & Fielding LLP submitted letters to Chairman Michael K. Powell, Commissioner Kathleen Q. Abernathy, Commissioner Michael J. Copps, and Commissioner Kevin J. Martin urging the Commission to take action on Iowa Telecom's Emergency Petition for Forbearance in the above-captioned proceeding. In accordance with Section 1.1206 of the Commission's rules, Iowa Telecom is filing two copies of these ex parte presentations for inclusion in the public record.

If you have any questions regarding this request, please call the undersigned.

Sincerely,

Derek A. Yeo  
Counsel for Iowa Telecommunications  
Services, Inc.

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August 9, 2002

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VIA HAND DELIVERY

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 Twelfth Street, SW  
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AUG - 9 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: Petition for Forbearance of Iowa Telecommunications Services, Inc.  
d/b/a Iowa Telecom, CC Docket No. 01-331**

Dear Chairman Powell:

I am writing to urge you to take action on the pending Emergency Petition for Forbearance of Iowa Telecommunications Services, Inc. ("Iowa Telecom"). This relief is critical to our ability to improve service quality and deploy broadband services to our rural Iowa customers. As you know, Iowa Telecom filed the Petition in November 2001 to obtain regulatory relief with regard to its present level of interstate access charges. The company must make substantial infrastructure investments to modernize its network and deploy advanced services in rural areas. The regulatory straightjacket imposed by CALLS, however, precludes the company from adequately funding the interstate portion of these infrastructure investments. Simply put, CALLS does not work for Iowa Telecom, given the company's pressing need to make large investments in infrastructure. The Emergency Petition seeks limited relief that would give the company an opportunity to cost-justify its interstate access charges based on a TELRIC model endorsed by the Commission, affirmed by the Supreme Court, and supported by interexchange carriers ("IXCs").

Iowa Telecom and the staff of the Wireline Competition Bureau ("Bureau") have worked together to fully develop the record in this proceeding. The company appreciates the promptness with which the Bureau staff acted to issue the public notice in this matter. Since the close of the formal comment period, Iowa Telecom and the Bureau staff have worked diligently to ensure the completeness of the record, and this matter is now ripe for Commission action.

To provide a brief background, Iowa Telecom is an incumbent local exchange carrier ("ILEC") that provides local telephone service in almost 300 rural exchanges dispersed throughout the State of Iowa. The company began operations in July 2000 after acquiring all of the local exchanges formerly operated in Iowa by GTE Midwest, Inc. ("GTE"). Because GTE had operated as a price cap carrier, Iowa

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Telecom elected price cap regulation in order to minimize disruptions to its rural customers. Iowa Telecom thus became, and remains, the smallest price cap carrier in the Nation. The largest town it serves, Newton, has fewer than 16,000 inhabitants. Further, because the company's service territory is so sparsely populated (there are only fourteen access lines per square mile, on average), it is subject to the 0.95 cents per minute Average Traffic Sensitive ("ATS") rate under the Commission's *CALLS Order*.<sup>1</sup>

At the time that Iowa Telecom acquired GTE's Iowa exchanges in 1999, *CALLS* was under consideration as a voluntary, opt-in plan for price cap carriers. The company therefore reasonably expected that it could remain under traditional price cap regulation. When the *CALLS Order* was released in May 2000, that regulatory option had been removed; instead, the *Order* gave price cap carriers 60 days to make an election between accepting an ATS target rate set by the six proponents of *CALLS* (AT&T, Bell Atlantic, BellSouth, GTE, SBC and Sprint) or reinitializing its rates at forward-looking economic cost ("FLEC") by preparing and submitting a cost study.<sup>2</sup> Because Iowa Telecom did not commence operations until July 2000, the company lacked the knowledge and operating experience necessary to prepare a FLEC cost study, or even to assess the viability of this cost study option. Moreover, it was widely expected that FLEC-based rates for price cap carriers would be below the *CALLS* rates, eliminating FLEC as an economically viable option for Iowa Telecom. Based on this expectation concerning FLEC-based rates and the obvious impracticality of preparing a forward-looking cost study without any operational data, Iowa Telecom had no choice but to elect the first *CALLS* option, which subjected the company to an ATS rate of 0.95 cents per minute.

Iowa Telecom's Emergency Petition seeks forbearance from the "60-day rule" in the *CALLS Order* so that it may make a meaningful election. Now that the company has been in operation for more than a year and has had the opportunity to analyze cost data from its operations, it has discovered that the *CALLS* ATS rate fails to provide sufficient revenues to enable it to begin desperately needed network upgrades that would provide modern telecommunications services and an infrastructure that supports wide availability of broadband services. Forward-

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<sup>1</sup> Access Charge Reform, CC Docket No. 96-262, Sixth Report and Order, 15 FCC Rcd 12962 ¶ 142 n.304 (2000) ("*CALLS Order*"), *aff'd in part, rev'd in part*, *Texas Office of Public Utility Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001); 47 C.F.R. § 61.3(qq).

<sup>2</sup> See *CALLS Order* ¶¶ 57, 61.

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looking cost data submitted in this proceeding establish that the company's FLEC ATS rate is above two cents per minute, far above the rate permitted under CALLS. Continued imposition of the CALLS 0.95 cents per minute rate would thus prevent the company from making the investments in its infrastructure that are necessary to modernize its network, improve the quality of interstate access service, and increase the availability of advanced services to its rural customers. Moreover, given the present economic circumstances, particularly the inability of telecom companies to raise capital from external sources, Iowa Telecom is limited to making capital investments that can be funded from its ongoing operations.

As shown in the record, the three statutory criteria that govern forbearance relief are satisfied in Iowa Telecom's particular circumstances. First, enforcement of the 60-day rule is not necessary to ensure that its interstate access rate remains just and reasonable. The relief Iowa Telecom is seeking would allow the company only to reset its rates to FLEC, which the Commission has repeatedly held is a reasonable level that would be achieved in a fully competitive market.

Second, enforcement of the 60-day rule is not necessary to protect consumers because the requested relief would have only a *de minimis* impact on consumer rates. At the same time, forbearance relief would be enormously beneficial to rural Iowa consumers as it would permit Iowa Telecom to improve the quality of interstate access service and enhance access to advanced services, particularly broadband Internet service. Continued enforcement of the ATS rate in Iowa Telecom's circumstances would deprive rural Iowans of these benefits.

Third, the public interest is clearly satisfied in Iowa Telecom's circumstances. Forbearance would allow Iowa Telecom to make substantial infrastructure investments that would improve the quality and variety of services available to its rural customers. For the first time, many rural Iowans would have access to broadband services. The requested relief would thus clearly further the objectives of Section 706 of the Communications Act, which directs the Commission to encourage the deployment of advanced services to *all* Americans.

The only concerns raised in this proceeding, all from IXC's, address the way that FLEC should be measured. Predictably, these IXC's oppose any increase in interstate access rates even where, as here, such increases are cost-justified using a methodology that AT&T and WorldCom have supported in the past. Notably, none of the IXC's submissions in this proceeding present a credible challenge to any of the three statutory legal forbearance criteria. The IXC's have been silent, however,

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when it comes to proposing a more appropriate FLEC methodology than the Commission's Synthesis Model. The simple reason for this silence is that no such alternative presently exists. Iowa Telecom has used the only FLEC model approved by the Commission.

Moreover, Iowa Telecom has made numerous refinements to the Synthesis Model inputs to produce output rates that are tailored to its specific circumstances and that are designed to be responsive to the Commission's concerns. These adjustments are described in detail in Iowa Telecom's April 5, 2002 and July 2, 2002 ex parte filings with the Commission. Most significantly, the company has consolidated its three study areas into one to remove any possibility of network redundancy, and it has updated numerous model inputs to reflect the current configuration of its network and its present traffic patterns. These modifications to the Synthesis Model inputs have been both time-consuming and costly, yet Iowa Telecom has made them in the interest of developing an adequate record upon which the Commission can act. Although the company's and the Bureau's technical experts are working together to solve one remaining cost study issue, the record is now sufficiently developed to provide the Commission with confidence that Iowa Telecom's forward-looking ATS rate is significantly above the 0.95 cents CALLS rate. Any remaining concerns regarding possible minor refinements to the cost model should be, and can be, resolved during the tariff process that would follow a decision on the merits of the Petition.

In summary, the record is now ripe for Commission action on the merits of the Petition. The record amply demonstrates that each of the legal criteria for forbearance is satisfied in this case. Furthermore, the company has demonstrated the urgent need for this emergency relief. I therefore urge the Commission to take action on Iowa Telecom's Petition prior to the November 2002 statutory deadline so that the many benefits that would result from a grant of forbearance can be brought to rural customers in Iowa without delay.

Sincerely,



Mimi Weyforth Dawson

cc: William Maher